

DEVELOPMENT SERVICES DEPARTMENT

Planning & Zoning Division

MEMORANDUM

PZ 05-49-99

06/02/99 COUNCIL AGENDA ITEM

TO: Robert Rawls, Interim Town Administrator

FROM: Town Staff

DATE: 5/28/99

RE: Resolution certifying billboard Site

The attached Resolution provides for certification of a billboard location at 7520 State Road 84 (NTW Tire & Battery) for Gold Coast Advertising and the Boys and Girls Club of Broward County, Inc.

To date, ten (10) billboard sites have been certified, nine (9) have been issued building permits, nine (9) have been constructed, and one (1) certification has expired. The site under consideration was previously certified on December 18, 1996, pursuant to Resolution R-96-396, and expired on June 18, 1997. Pursuant to Town Code, Section 12-238(J)(9)(e), certification of a billboard site expires unless a building permit for the sign is issued within 180 days of the approval.

Certified billboard sites

- 1) 250 SW 136 Ave. (Shurgard Storage Facility)
- 2) 10240 State Road 84 (Near Company Picnic Co.)
- 3) 450 SW 130 Ave. (Calvary Chapel)
- 4) 1801 S. University Drive (K-Mart Plaza)
- 5) 401 SW 148 Ave. (Vacant land across from Vista Filare)
- 6) 8200 State Road 84 (AMF Bowling Center)
- 7) 8600 State Road 84 (Park City Plaza Shopping Center)
- 8) 9000 State Road 84 (Ridge Plaza Shopping Center)
- 9) 11802 State Road 84 (under development- previously Westwind)

RESOLUTION _____

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, CERTIFYING A BILLBOARD SITE PURSUANT TO SECTION 12-238(J)(9) OF THE TOWN CODE PURSUANT TO THE REQUEST OF THE BOYS AND GIRLS CLUB OF BROWARD COUNTY, INC. AND GOLD COST ADVERTISING; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 12-238(J)(9) of the Code of the Town of Davie provides for erection of ten (10) additional billboards within the Town of Davie provided that said billboards meet certain criteria as set forth in that ordinance; and

WHEREAS, the Boys and Girls Club of Broward County, Inc. and Gold Coast Advertising have requested certification of one (1) site, the description of which is attached hereto as Exhibit "A" and made a part hereof; and

WHEREAS, the the Boys and Girls Club of Broward County, Inc. and Gold Coast Advertising are authorized to construct and operate eight (8) billboards within the Town of Davie; and

WHEREAS, the Town Council has reviewed the proposed site referenced above.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. The potential billboard site described in Exhibit "A" attached hereto is hereby found to meet the criteria set forth in Section 12-238(J)(9)(a), (b), (c), (d), and (e), and accordingly is hereby certified as a billboard site, said certification being effective upon the effective date of this Resolution.

SECTION 2. This Resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS _____ DAY OF _____, 1999.

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 1999.

7

STATE ROAD 84 & INTERSTATE-595

Section 101.101 - Section 101.102 - Section 101.103

L. J. C. 124 401-404

[illegible]

John A. Smith 2-2-98

QUICK M	FSE	GIVE
FRIGIDA	SOLD CASES	2000
	ACROSS	

[illegible]

SCALE: 1" = 40'

FIELD BOOK: 415-56



DENI ASSOCIATES

5701 Pine Island Rd., Suite 201, Palm Beach, FL 33481 (561) 722-1717 Fax (561) 722-1049

LAND SURVEYS • SUBDIVISIONS • CONSTRUCTION SURVEYS

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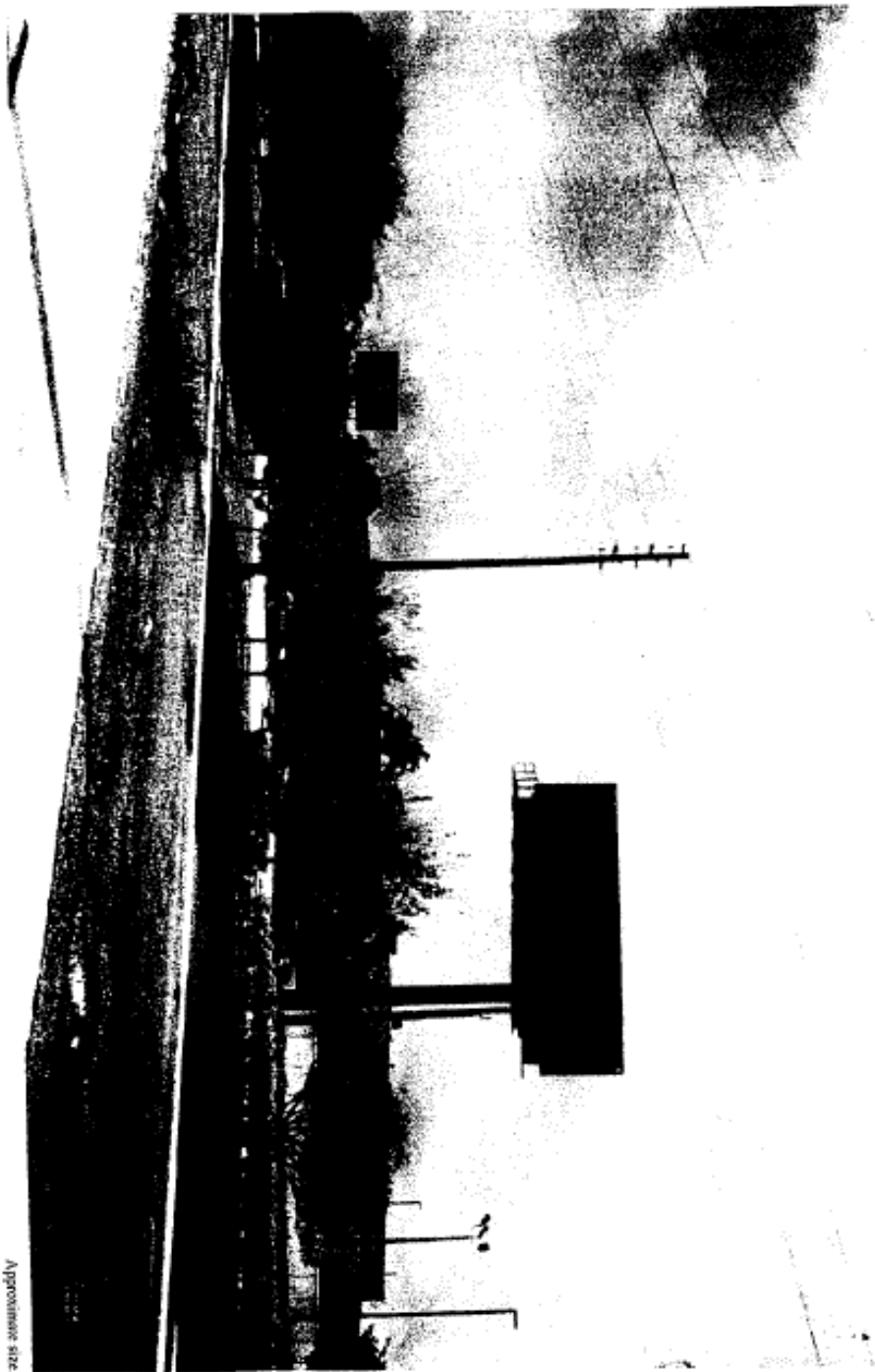
GEOGRAPHICAL DESCRIPTION

BILLBOARD WILL BE LOCATED ON THE SOUTHSIDE OF I-595/SR 84...1862 FEET
EAST OF UNIVERSITY DRIVE....ON THE WESTERNMOST PROPERTY LINE OF
NATIONAL TIRE & BATTERY @ 7520 STATE ROAD 84.

LEGAL DESCRIPTION

A PORTION OF PARCEL 'A' AT DAVIE TOWNE CENTRE PLAT, ACCORDING TO
THE PLAT THEREOF AS RECORDED IN PLAT BOOK 133 PAGE 33 OF THE
PUBLIC RECORDS OF BROWARD COUNTY FLORIDA DESCRIBED AS: BEG NE
COR SAID PARCEL A. NWLY 200.42, SW 291.5 SE 42.85 NE 20 SE 156.83
NE 288.70 TO POINT OF BEGINNING.

EAST BOUND ROAD



Approximate size

Gold Coast Outdoor Advertising

KIES & KENNEDY



Approximate size

Gold Coast Outdoor Advertising

LICENSE AGREEMENT

THIS LICENSE AGREEMENT ("License Agreement") is made this 19th day of April, 1999, between NTW INCORPORATED, a Delaware corporation ("Licensor") and GOLD COAST ADVERTISING, INC., a Florida corporation ("Licensee"). The parties agree:

1. Premises

Licensor licenses the use to Licensee of that part of the following premises commonly known as 7520 State Road #84, situated in the City of Davie, County of Broward, State of Florida, more particularly described as:

That certain space on the Western boundary, consisting of approximately thirty-six (36) square feet at it's base, identified as the area shaded in blue on the Site Plan attached hereto as Exhibit "A" (the "Premises") located on the property of Licensor which is outlined in red on the Site Plan (the "Entire Tract").

2. Use

A. The Premises may be used by Licensee for the installation, operation and maintenance of a billboard sign (the "Billboard") and for no other use. Licensee agrees to comply with all federal, state and local governmental laws, rules, regulations and ordinances applicable to Licensee's use of the Premises and operation of the Billboard.

B. The Billboard shall consist of and be limited to:

- (i) A single pole, two-face, billboard structure.
- (ii) One (1) 6-foot diameter hole shall be drilled to support a forty-eight (48) inch section of pipe. This vertical pole supports the billboard structure and will be located at the extreme rear of the billboard (in the grass area of the parking lot).
- (iii) The face of the Billboard shall extend over the access driveway, and is not in any manner or under any circumstances, to interfere with or impede traffic flow.
- (iv) The two (2) face sides come together to form a "V". The distance between the 2 faces at the rear of the billboard shall be no greater than twenty-two (22) feet, to insure that no part of the billboard extends over the fence that is located on the property line.
- (v) Each sign face shall measure not more than fourteen (14) feet in height and forty-eight (48) feet in width, and stand not higher than sixty-five (65) feet in maximum height above the road, advertising copy extensions excepted, so long as any advertising copy extensions do not encroach beyond Licensor's property lines for the Entire Tract.

At no time will the Billboard's dimensions exceed those set forth above, nor will there be any changes in the size, configuration, height, illumination, or materials used in the construction of the Billboard without the prior written consent of Licensor, and such approval may be withheld in Licensor's sole discretion.

3. Term

The term of this License Agreement (the "Term") shall commence on the earlier of the ninety-first (91st) day after Licensee receives approval from Davie Township for the construction of the Billboard, or the date the Billboard construction is completed ("Commencement Date"), and shall terminate on the day prior to the tenth (10th) anniversary of the Commencement Date ("Termination Date"), or such later date if any or all of the options granted herein are exercised. If the Term has not commenced prior to October 1, 1999, this License Agreement shall become null and void with no further obligation on the part of the Licensor hereunder. The parties shall memorialize the Commencement Date by the execution of a Supplement Agreement in a form similar to that attached hereto as Exhibit "B."

4. Renewal Options

Licensor grants to Licensee three (3) consecutive ten (10) year options to extend the Term, which options shall be exercisable on written notice by Licensee to Licensor no later than thirty (30) days prior to the expiration of the Term (as extended by any and all options). During any extension of the Term, all Sections of this License Agreement will remain and will be effective, and references to Term will incorporate the extensions.

5. Fee

A. Licensee agrees to pay the annual fee (the "Fee") in full and in advance under the following schedule:

Term years 1-10	\$ [REDACTED] per year
Option Period 1 (10 years)	\$ [REDACTED] per year
Option Period 2 (10 years)	\$ [REDACTED] per year
Option Period 3 (10 years)	\$ [REDACTED] per year

In addition to the Fee, Licensee shall be required to pay any and all rent, sales, use or other taxes (collectively referred to as "Fee Taxes") which may be due and owing as a result of this License Agreement and Licensor shall remit such tax payments to the appropriate taxing authority in a timely manner.

B. Fee Payment

- (i) The Fee for the first year of the Term, shall abate in consideration of the Licensor receiving one year's advertising on the Billboard (see Section 6-A below). Fee Taxes, if any, shall not abate during the period.
- (ii) The Fee for the second year of the Term, shall be reduced by one-half (1/2) as additional consideration for Licensor receiving advertising on the Billboard (Section 6-A below). However, Fee Taxes, if any, shall not abate during this period. The remainder of the Fee for the second year, [REDACTED] thousand dollars (\$ [REDACTED]), shall be due and payable on the day which is eighteen (18) months after the Commencement Date.
- (iii) For years 3 through 10 inclusive and for any and all option periods, the applicable annual Fee shall be due and payable in full starting on the third anniversary of the Commencement Date and each and every anniversary date thereafter until the expiration of the Term

6. Licensor Advertising

A. Licensee will provide for Licensor's usage either the easterly or westerly facing sign, depending upon availability ("Licensor's Face"). The usage of the Licensor's Face shall be for a term of one year beginning the date Licensor commences its advertising, and ending twelve (12) full months thereafter.

B. The Licensor will not incur nor be responsible for any costs or expenses, including installation of the signage, related to the License Face. Licensor shall pay for the costs of its signage materials.

C. Licensor shall not be required to make nor be liable for any donation to the Boys and Girls Club of Florida at any time during the Term.

D. Licensee may not change the direction of the Licensor's Face during the one year Licensor advertises on the Billboard.

7. No Leasing Of Advertising To Competitors Of Licensor

As additional consideration for Licensor entering into this License Agreement, Licensee agrees that during the Term, it will not lease to nor permit any competitor (as herein defined) of Licensor to advertise or display any advertising or signage on either face or in any manner attaching to or hanging from the billboard structure. A competitor is defined as any business which is involved in the selling, servicing, repair or maintenance of automobiles, excluding new and used automobile dealerships; or any other business which competes with any business or use being operated at the Entire Tract from time to time.

8. **Advertising Standards**

Licensee shall not accept nor permit any advertising for any adult bookstore, massage parlor, gentlemen's club, or other business which sells or otherwise disseminates pornographic or adult orientated materials, products or services, whether of a sexually explicit nature or not (such items which are not permitted to be sold to any person under the age of eighteen (18) years old) through any and all types of media, which may or may not be offensive to the local community.

Licensee shall not install, affix to, suspend from, incorporate in the design or construction of the Billboard or place on the premises any telephone, radio or television antenna, loudspeakers, communication relays and the like. Nor shall Licensee be permitted to install, affix to, suspend from the Billboard or place on the Premises any structure, item or thing which would affect or take away from the aesthetics and/or the accepted design of the Billboard.

9. **Repairs, Maintenance and Utilities**

A. Licensee agrees, at its sole cost and expense, to make all repairs and replacements to the Billboard which become necessary during Licensee's use of the Premises by reason of wear and tear, weather, age, or the fault or neglect of Licensee, its agents, employees, invitees or customers. Licensee also agrees to keep the Premises in well maintained condition, meeting applicable local ordinances. Upon the termination of this License Agreement, Licensee agrees to deliver the Premises to the Licensor in as good condition as when received. Licensee shall further keep the Billboard, the Premises and any improvements and fixtures thereon in good order and repair.

B. Licensee shall promptly complete all construction, installation, removal, repair and maintenance work and immediately after completing its work, shall return the Premises and any of Licensor's property disturbed by the work, to the same condition, or as close as reasonably possible to the same condition, except for its permanent improvements, as just prior to the commencement of the work.

C. Upon termination of this License Agreement, at the option of the Licensor regardless of the reason for termination, Licensee agrees to:

- (i) remove the billboard structure
- (ii) remove the pole, including any part that is below ground
- (iii) remove all concrete surrounding the pole
- (iv) backfill the hole with clean dirt, including at least six (6) inches of topsoil
- (v) if the adjacent area is grass, to re-plant the area with grass seed or sod comparable to the existing grass
- (vi) if the area is paved or covered with another surface, to bring the condition of the Premises into conformity with the adjacent area.

D. Licensor shall at all times have access to the Premises.

E. If Licensee fails to promptly perform the obligations in this Section 9 after being given written notice by Licensor, Licensor has the right to perform or cure them and to recover Licensor's cost with interest from Licensee at an annual rate equal to the prime rate as published in the Money Rate Section of the Wall Street Journal from time to time (if Wall Street Journal is no longer published or disseminated through any media, or it ceases to publish a prime rate, then the largest bank headquartered in Chicago, Illinois as determined by net worth).

F. Licensee is responsible and liable for the payment of all utilities, including any and all labor charges, materials, installation and metering costs, in connection with its use of the Premises and the operation of the Billboard. All utilities are to be in Licensee's own name and account.

G. During the Term, the Licensee is responsible and liable for the payment, in addition to any Fee Taxes, of all real estate taxes, special assessments and the like levied against the Premises and/or the Billboard. Licensor will inform Licensee how these obligations are to be paid.

10. Risk of Loss

Licensee will use the Premises at its own risk. Licensor shall have no responsibility or liability for any loss of or damage to any property of Licensee. Licensor shall not be responsible or liable to Licensee or to anyone claiming by, through, or under Licensee for any loss or damage that may be occasioned by or through the acts or omissions of any person or occupant of the Entire Tract, from any cause whatsoever. Licensee agrees that it will not do, permit anything to be done in or about, bring anything onto or keep anything on the Premises, which shall increase the rate of insurance on the Entire Tract or any portion thereof.

In the event the Premises or Billboard are damaged or destroyed due to any occurrence, Licensee at its sole cost and expense, shall be permitted to restore the Premises and/or Billboard to the same dimensions, aesthetics and condition, which existed prior to the damage or destruction occurring. If Licensee does not restore the Premises and/or the Billboard, Licensee shall nevertheless be required to comply with the restoration requirement set forth in Section 9-C above.

11. Condemnation

In the event there is a taking by eminent domain which renders the Premises no longer useful for the intended purpose, either party may terminate this License Agreement by giving written notice to the other party. If Licensee elects to terminate the License Agreement, Licensee will restore the Premises as set forth in Section 9-C above. Licensee will have no rights to, claim against or interest in any condemnation award.

12. **Default**

Landlord may reenter the Premises, recover possession and dispossess Licensee if, after receiving written notice from Licensor, Licensee fails (x) to make payment of any past due Fee, Fee Tax or other tax obligation within fifteen (15) days thereafter; or (y) to start performance of any other covenant or agreement to be performed by Tenant herein within thirty (30) days thereafter and to diligently proceed to cure said default within sixty (60) days of such notice of default. If Licensee, after receiving notice, promptly commences to cure such default and proceeds to cure the default within sixty (60) days, then no default shall be deemed continuing.

13. **Insurance**

Licensee shall pay for and maintain, beginning as of the date of this License Agreement and continuing throughout the Term, the following policies of insurance covering the Premises, which insurance shall be obtained from companies satisfactory to Licensor:

- A. Workers' Compensation Insurance covering all costs, statutory benefits and liabilities under State Workers' Compensation and similar laws for employees of Licensee with a waiver of subrogation in favor of Licensor and Employer's Liability Insurance with limits of not less than \$500,000.00 per accident or disease. Licensee agrees to require any contractor or subcontractor hired by Licensee to maintain such insurance and Licensee agrees to indemnify, defend and hold Licensor harmless from any loss or damage resulting from Licensee's failure to maintain such insurance.
- B. Commercial General Liability Insurance with coverage for premises/operations, products/completed operations, contractual liability, and personal/advertising injury with combined single limits of not less than \$3,000,000.00 per occurrence for bodily injury and property damage, and including Licensor as an additional insured.
- C. All Risk Property Insurance upon all of Licensee-owned property, including but not limited to, those perils generally covered by a Causes of Loss - Special Form, including fire and extended coverage, windstorm, vandalism and malicious mischief, sprinkler leakage, flood, earthquake and other weather related incidents in the amount of one hundred percent (100%) of full replacement cost.
- D. Motor Vehicle Liability Insurance with coverage for all owned, non-owned and rented vehicles with combined single limits of not less than \$1,000,000.00 per occurrence for bodily injury and property damage.
- E. Each policy shall expressly provide that it shall not be subject to cancellation or material change without prior written notice to Licensor. Licensee shall furnish Licensor, concurrently with the execution of this License Agreement, with insurance certificates and, upon request by Licensor from time to time, copies of such policies required to be maintained hereunder.

14. Indemnity

Licensee agrees to indemnify, protect, defend and hold Licensor, its directors, officers, employees and agents, harmless from and against all claims, actions, losses, damages, costs, expenses and liabilities (except those caused by the willful misconduct or negligent acts or omissions of Licensor), arising out of actual or alleged injury to or death of any person or loss of or damage to property in or upon the Entire Tract, including the person and property of Licensor, its directors, officers, employees, agents, invitees, licensees or others, arising from the acts or omissions of Licensee, its employees, agents, invitees or guests.

15. Revocability

At any time during the Term, Licensee is in default of the License Agreement, as set forth in Section 12 herein, and the default is not cured within the proscribed period, Licensor shall have in addition to any and all of its other legal and equitable rights and remedies, the right to terminate the License Agreement.

Also, during the Term, Licensor shall have the right to cancel the License Agreement if Licensor requires the Premises for either expansion or remodeling. Licensor shall notify Licensee one (1) year in advance of the effective date of the cancellation of the License Agreement, (the "cancellation date"). If Licensor exercises its cancellation right, Licensee shall have the option of relocating the Billboard to a mutually agreeable site somewhere within the Entire Tract, and the License Agreement will continue and remain in full force and effect, except for a change of the location of the Premises, set forth on Exhibit A. Any relocation must be mutually agreed to prior to the cancellation date. If Licensor elects to cancel the License Agreement, even if the Billboard is relocated, Licensee will restore the Premises as set forth in Section 9-C above.

16. Assignment

A. Licensor in its sole discretion may at any time and from time to time, assign, transfer or convey this License Agreement or any of its rights, covenants, duties or obligations hereunder to a parent, subsidiary or ancillary corporation or entity, or to any other third party.

B. Licensee shall not assign, transfer, sublease or otherwise encumber this License Agreement without the prior written consent of Licensor. Licensee may be relieved of its obligations under this License accruing after the date of such assignment provided that:

- (a) the transferor shall not then be in default in the performance of any covenant or obligation hereunder;
- (b) the transferee assumes, and agrees to be bound by all of the terms, covenant and conditions imposed upon Licensee under this License Agreement;

(c) the transferee has a then current net worth, as shown on its then current annual financial statement (that is dated within sixty (60) days prior to the assignment) certified by a nationally recognized certified public accountant, which statement shall be delivered to the Landlord contemporaneously with such assignment showing a net worth being the greater of the following: (i) an amount equal to or greater than \$2,500,000.00, or (ii) the then net worth of the Licensee;

(d) a copy of such assignment together with an assumption agreement in favor of Licensors whereby the assignee assumes the full, prompt and faithful performance of all of Licensee's obligations accruing thereafter (which agreement shall be in form and substance reasonably satisfactory to Landlord) shall be delivered to Landlord contemporaneously with such assignment.

17. Notices

Notices shall be in writing and shall be deemed to be properly served two (2) business days after being deposited with the United States Postal Service, via registered or certified mail, return receipt requested and bearing adequate postage, or one (1) business day after being deposited with a reputable overnight courier service for guaranteed next day delivery and addressed below, or to any other address furnished in writing by any party.

Licensors-	Sears, Roebuck and Co. 3333 Beverly Road Hoffman Estates, Illinois 60179 Attn: Vice President, Real Estate Department 824RE
With a copy to:	Sears, Roebuck and Co. 3333 Beverly Road Hoffman Estates, Illinois 60179 Attn: Assistant General Counsel, Real Estate Department 766
Licensee-	Gold Coast Advertising, Inc. Attn: Alison Oliver 3921 S. W. 47th Ave. Suite 1010 Davie, Florida 33314

18. No Partnership

Nothing contained in this License Agreement shall be construed to make the Licensors and Licensee partners or joint venturers or to render either party liable for the debts or obligations of the other party.

19. **Time of Essence**

Time is of the essence in this License Agreement.

20. **No Liens**

Licensee shall not permit any mechanic liens, encumbrances or other liens to be filed against, attached to or otherwise be placed against the Premises, the Entire Tract or any part thereof.

21. **No Recording**

This License Agreement may not be recorded or registered, nor does it grant nor convey to Licensee any property right, interest in or title to the Entire Tract, including the Premises.

22. **Entire Agreement**

This License Agreement and the attached Exhibit A constitute the entire agreement between the parties with respect to the Premises and the Billboard. Any agreements or representations whether written or oral with respect to the Billboard which are not expressly set forth in this License Agreement are null and void. Neither this License Agreement nor any of its provisions may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the parties.

23. **Choice of Law**

This License shall be construed in accordance with and governed by the laws of the State of Florida.

24. **Third Party Beneficiaries**

Except as herein specifically provided, no other person, customer, employee or invitee of Licensee or any other third party shall be deemed to be a third party beneficiary of any of the provisions herein.

25. **Partial Invalidity**

If any Section, paragraph, subparagraph, sentence, clause or phrase of this License Agreement shall be declared or judged invalid or unconstitutional, such adjudication shall not affect the other Sections, paragraphs, subparagraphs, sentences, clauses or phrases.

26. **Counterparts**

This License Agreement may be executed in two or more counterparts, each of which shall be deemed an original.

27. **Headings**

The Section headings are for convenience and are not a part of this License Agreement.

IN WITNESS WHEREOF, the parties have caused this License Agreement to be executed:

Witness or Attest:

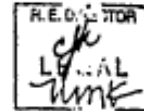
Caryn J. Kreitzer

Licensors:

NTW INCORPORATED

By: Charles H. Kay II

Charles H. Kay II
Sr. Real Estate Director



Licensee:

GOLD COAST ADVERTISING, INC.

By: Alison Oliver

Alison Oliver, Vice President

TOWN OF DAVIE

FUTURE LAND USE PLAN MAP: YEAR 2010

